



ISS/APSTA Seminar Report

Title: 'Developments and Challenges in the Operationalisation of the ASF:
An Insider's Perspective'

Venue: Addis Ababa, Hilton Hotel

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Presenter: Col. Charles Debrah, Training Officer, African Standby Force
PLANLEM African Union Peace Support Operations Division

Respondent: Dr. Girmachew Alemu Aneme, Assistant Professor of Law,
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Chair: Dr. Kenneth Mpyisi, Director ISS Addis Ababa Office

One of the fundamental changes that have come about with the transformation of the OAU into the African Union (AU) is the establishment of a comprehensive peace and Security regime. The African Peace and Security Architecture, as it has now come to be called, is institutionalised within the framework of the AU Constitutive Act and the Protocol on the Peace and Security Council (APSA).

The APSA is a key mechanism for implementing the objectives and principles of the AU. According the Constitutive Act, one of the objectives of the AU is 'to promote peace, security and stability on the continent'.¹ In changing course from the practice of the OAU, the Act also envisages

¹ Art. 3(f) Constitutive Act of the AU.

‘the right of the Union to intervene in a member state ...in respect of grave circumstances, namely: War Crimes, genocide and crimes against humanity’ as one of the principles of the AU’. To this end, the AU adopted the Protocol relating to the Establishment of the Peace and Security Council (PSC Protocol).

The Peace and Security Council was established as a standing decision-making body for the prevention, management and resolution of conflicts. It is envisaged as a collective security and early warning arrangement to facilitate timely and efficient response to conflict and crisis situations in Africa.² The tools that the PSC makes use of for fulfilling its mandate include early warning and preventive diplomacy; peacemaking, including the use of good offices, mediation, conciliation and enquiry; and peace support operations and intervention, pursuant to Article 4(h) and (i) of the Constitutive Act.³

In terms of the realization of Art 4(h) of the Constitutive Act of the AU and the prevention of serious atrocities, the most important institutional tools is the African Standby Force (ASF). According to Article 13 of the PSC Protocol, an African Standby Force shall be established in order to enable the Peace and Security Council perform its responsibilities with respect to the deployment of peace support missions and intervention pursuant to article 4(h) and (i) of the Constitutive Act. It is further provided that the ASF ‘shall be composed of standby multidisciplinary contingents, with civilian and military components in their countries of origin and ready for rapid deployment at appropriate notice.’ According to the Policy Framework Document Establishing the ASF, the ASF shall be composed of a) Military Staff Committee b) An HQ element based at the

² Art. 2(1) AU Protocol Relating to the Establishment of the Peace and Security Council of the African Union adopted by the First Ordinary Session of the Assembly of Heads of the African Union on 9 July 2002 in Durban, South Africa.

³ Art. 6 of the PSC Protocol.

Head Quarters of the AU, in Addis Ababa involving Continental Planning Element and Continental Military Logistics Depot and Regional Standby Brigades in the five African regions as well as regional training facilities.

The African Union (AU) has been working relentlessly to put in place the necessary policy and institutional frameworks for the development and operationalization of the ASF. According to the AU's plan, the ASF is envisaged to be operational in 2010. The question in everyone's mind now is what progress has been made and challenges faced in the ongoing effort to make the ASF operational within the time limit contemplated. This seminar is organized by APSTA not only to address these issues but also to inform relevant African actors and the general public on the role and importance of the ASF and thereby garner their support, participation and ownership of the ASF and its future role in conflict prevention, peacekeeping and peace-building.

In his opening remarks, Kenneth Mpyisi, Director of the Addis Ababa Office, expressed that in the period following the Rwandan Genocide, whose 15 years anniversary was commemorated at the AU on 7 April 2009, it has become clear that there was need for Africa to develop a continental mechanism to promote peace, security and stability and prevent the recurrence of similar outrageous atrocities. He observed that recognizing this, the AU established a comprehensive peace and Security Architecture, the APSA with a promise to the people of Africa that the AU will come to their rescue if and when they are faced with threats of the kind that took place in Rwanda 15 years before. In highlighting the importance of the seminar, Dr Mpyisi noted that the key instrument by which the AU seeks to realize this promise is the African Standby Force (ASF). Indeed, the successful development of the ASF is a pre requisite for the AU to be able to respond to conflicts and avert them from deteriorating into grave circumstances such as genocide, war crimes and crimes against humanity. Given the plan to have the ASF ready by 2010, it

is timely to reflect on the progress made and challenges faced towards the operationalization of the ASF.

Col. Charles Debrah started his presentation by reminding participants the vision of the AU to 'build an integrated, prosperous and peaceful Africa driven by its own citizens and representing a dynamic force in the international arena'. This vision, as noble as it is, cannot be realized, according to Col Debrah, without peace and security. It is this that has led to the establishment of the African Peace and Security Architecture. He discussed at length the various components of the APSA, their respective role, importance and challenges.

Apart from the Peace and Security Council, the Panel of the Wise, the continental early warning system, the peace fund and the ASF, Col. Debrah explained that Post-conflict Reconstruction and Development is recently added to form part of the APSA. He noted that since the ASF is part of the whole, it cannot work in isolation from these other parts of the ASF. With respect to the PSC, he noted that it is the heart of the APSA. It is the body that is responsible for decisions on matters of peace and security and the operation of the various elements of the APSA. It was highlighted that compared to the UN Security Council the PSC is a highly democratic body in which no particular country has a permanent seat nor a veto power. With respect to the challenges facing the PSC, it was noted that the PSC has a relatively small secretariat and lacks office accommodation.

Another component of the APSA highlighted in Col. Debrah's presentation was the Panel of the Wise, whose main role is to undertake fact finding missions, peace making and advise. It was noted that the Panel, which has been working since its official launch on 2 December 2007, lacks office accommodation and dedicated staff to facilitate its activities.

With respect to the Continental Early Warning System, the presenter noted that this is another important aspect of the APSA that initiates the process that puts all the other aspects of the APSA into action. It was indicated that although

progress has been made in terms of operationalizing the situation room at the AU by providing it with equipments and by developing software for open source analysis, the situation rooms of RECs/RMs are still under development and their staff being recruited. The link between the Situation Rooms of the various RECs/RMs as well as between the one at the AU and the RECs/RMs is still lacking forcing the PSC to operate on the basis of external and inadequately analysed information.

The ASF was the last component of the APSA and the main subject of discussion by Col Debrah. The ASF is an enforcement tool of the APSA which, according to Col Debrah, is expected to be operational by 2010. According to the presenter, the ASF was planned to be developed in two phases. Phase I (2003-2005) focuses on the development of strategic level management capacity for Scenario I and II and the establishment of regional standby brigades by RECs/RMs for scenario IV missions. Although this phase has been successfully achieved, it was noted that it was completed belatedly. Policy documents developed during this phase were adopted in March 2008 by AMDS.

With respect to the Standby Brigades, all RECs/RMs have the necessary framework documents, MoU and pledges. ECCAS and SADC decided not to have Brigade HQ as it was deemed to result in unnecessary cost, while all other RECs/RMs identified and established brigade HQ. The civilian elements of the AU as well as RECs/RMs PLANLEMs are not yet operational. According to Col Debrah this is one area that is lagging behind and received not adequate attention in the development of the ASF. Apart from these, none of the RECs/RMs developed standby roster as yet for individual personnel to form part of ASF.

According to Col Debrah, the six areas of activities outlined in the Roadmap for phase II are advocacy; Ensure adequate human, physical, procedural Structure and Framework in place by 2009; Further refine Political Process & Operational Concepts, Capability Development – fully trained and equipped to meet scenario 4 challenges; Update ASF Documentation by 2010, Validation and

Review – Conduct an AU CPX to review the readiness of the ASF and report back to council at the 2010 mid-year summit.

In terms of the implementation of Roadmap II activities, the following were highlighted by Col Debrah

Further Development of Operational Concepts

The RDC Concept - Being refined and fine tuned with the RECs/RMs

Maritime Capability - A study has been conducted to propose a maritime capability concept for the ASF. Concept to be further discussed with RECs/RMs later to further refine it and seek concurrence

Formed Police Unit Capability – Concept proposed and to be discussed with RECs/RMs shortly

Algeria and South Africa requested to develop Strategic Lift Concepts for Air and Road/Rail respectively

Capacity Development

An appreciable level of training is being conducted at the tactical, operational and strategic levels to ensure the development of adequate human resource for the ASF.

Training Directive and Training Plan 2009 to 2010 issued to give direction and focus to ASF training.

AMANI AFRICA Cycle launched to evaluate the ASF

Advocacy

In this regard, AU plans to give ASF more visibility with member states by conducting seminars and slotting space for member states direct participation in ASF seminars and workshops. It also plans to publish all relevant ASF

documents. The ASF is also being linked with the AU website, giving it further visibility.

AMANI AFRICA CYCLE

This is formally launched in November 2008.

Objectives of the Cycle are

- Test and evaluate the capacities and procedures for the engagement of the ASF in Peace Support Operations (PSOs)
- Practice the establishment of a mission headquarters for an ASF deployment
- Increase awareness of ASF capabilities procedures and requirements within the senior personnel of the AU Commission and member states.

Major Cycle Activities Conducted are contributors Conference held in Brussels on 6 Feb 2009 yielded €2,020.00 cash pledges and Initial Planning Conference conducted in Addis Ababa 12th – 13th March 2009.

Outstanding Cycle Activities include MAPEX in September 2009, Political Strategic Seminar in November 2009, Strategic Seminar in November 2009, Exercise AMANI AFRICA by March 2010

Finally, col. Debrah identified and discussed the following challenges:

- The slow development or lack of development of the police and civilian components of the ASF both at the AU as well as the RECs/RMs, although the police component is fast catching up in recent months.
- Need to create synergy and common understanding between the various components – It was noted that as it stands the various components of APSA operate independently and this may pose a challenge in terms of the operationalization of the ASF. Accordingly, it was suggested that there has to be integration between the various components of the APSA and there may be a need to develop mechanism that feeds the works of

the one into the other and thereby facilitate harmonious and interconnected operation of the different parts.

- Maritime and air capacity – these are areas to which no adequate attention has been paid in the development of the ASF concept.
- The operationalization of the concept of one continental and five regional logistic depots is probably one very critical area that has yet to be decisively resolved. It was also noted that little attention was paid to the cost implications of this concept and the importance of developing logistics, much attention was put on policy development and the human dimension of the ASF. If the ASF is to be operational, the question of logistics should be promptly resolved. Whatever progress is made in terms of the operationalization of the ASF, it cannot be complete without the necessary logistics.
- Structural deficiencies of the PSOD- the PSOD requires new organizational structure with a standing mission planning and support structure that will permanently plan and support missions. As the experience in Darfur and Somalia shows, as it stands mission planning and support is developed on ad hoc basis as situations arise. This undermines stability, coherence and the possibility of integrating lessons learnt from one mission into another or future mission.
- Funding – The question of how the ASF is going to finance its operations is raised as another serious challenge.
- The question of mandating particularly at the regional level. There is lack of clarity as to the procedure and the authority that decides on mandating at the RECs/RMs level
- There is also the question of who has the legal authority over the use of ASF capabilities, AU or RECs/RMs?

The respondent Dr Aneme, who wrote his PhD dissertation at the University of Oslo on AU's right of intervention under Article 4 (h) of the AU Constitutive Act, spoke on four issues. The first issue that he raised as a point of discussion was the modalities of operation between AU and RECs/RMs. In this regard, he noted that no clear modality is developed as yet to define the working relations of the AU and RECs/RMs. Unless this relationship is clearly addressed it will create complication over the utilization of sub-regional organizations (or their brigade) for peace support operations and for intervention

The two principles that were identified by Dr Aneme, which may help in defining this relationship are the principle of subsidiarity and the principle of variable geometry. According to the principle of subsidiary, the lowest level of authority should be given the competence and the means to deal with matters of which they are capable and have comparable advantage. According to the principle of variable geometry, the AU should have the flexibility in the utilization of sub-regional organizations in such a way that it can utilize the more developed sub-regional organizations in other sub-regions lacking the necessary capacity.

The second issue Dr Aneme raised relates to the AU-UN relations in terms of the application of Article 4 (h) of the AU Constitutive Act. ASF is the instrument through which the AU intervenes in a member state in accordance with Art. 4(h). This is the first and only international instrument that provides for the right of a regional body to intervene by force in a member state to address grave circumstances such as genocide, war crimes and crimes against humanity. In the light of the international law principle of the prohibition of use of force under Art 2(4) of the UN Charter and the rule that the UN Security Council is the only body to decide on matters of forcible intervention to maintain international peace and security, the question that AU's right of intervention under Art. 4(h) raises is whether the AU would implement this right without resort to the UN SC. If it does, the issue is of course whether that would be legitimate under international law. He indicated that this has created anxiety

on the part of the UN as it may adversely affect the global collective security system anchored on the UN Charter.

The third issue identified by Dr Aneme as a point of discussion is the concept of lead nation in the Rapid Deployment Capability. The argument is that the idea of a lead nation brings with it the danger that powerful states use the mechanism to advance their interests and thereby undermine the legitimacy of the system.

Finally, Dr Aneme raised the question of funding as the fourth discussion point. According to him, this is probably the one issue that may pull down the whole ASF project. Unless sustainable means of funding is established, the ASF cannot continue on the basis of the generous support of good thinking donors only. Should this source stop at some point for any reason, the question is how is the ASF to be funded.

During the discussion session, various important questions were raised. One participant queried whether AU member states are serious about this given that they are not providing the necessary funding for this enterprise to work. It was pointed out that it is true that partly this is a result of lack of political will and a hasty political decision by AU member states in response to the Rwanda Genocide without thinking through all its requirements and implications. It was also admitted that this is a reflection of the economic situation of African states.

A very important question that received a lot of attention was the question of mandating. It was pointed out that in a conference held the previous week in Pretoria legal experts expressed the view that the UN is the only legally competent body to mandate forceful intervention in a country and that the AU should get authorization from the UN SC.

Dr. Aneme indicated that there are scholars who advanced the view that Article 4 (h) is contrary to international law norms particularly Article 2(4) of the UN Charter. He however indicated that since this is a treaty based right, member

states of the AU can be considered to have willingly subjected their right under Article 2(4) of the UN Charter to the limitation envisaged under Article 4(h) of the AU Constitutive Act.

It was nevertheless felt that to the extent that the UN SC is the responsible body for the maintenance of international peace and security, what role it would have with respect to AU actions particularly those falling outside of Chapter VIII of the UN Charter is an issue that needs to be addressed.

It came out from the seminar that the ASF is a very important tool and its establishment is very commendable. It was however emphasized that if the ASF is to be successful the various issues identified and challenges discussed should be addressed.

The seminar was well received and said to be timely. There were about 50 people in attendance attended by about 50 people from various African embassies including the Ambassador of Ghana, representatives from the Ministry of Foreign Affairs and the ICRC and representatives from various European countries and others.

Report by Solomon A. Dersso